REMARKS

Claims 1-2, 5, 9, 11-16 and 18-21 are pending in this application after this amendment. Based on amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended the claims to more appropriately recite the claimed invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claim 21 under 35 U.S.C. §102(b) as being anticipated by Kowald (U.S. Patent Application Publication No. 2003/0002715) (hereinafter "Kowald"); rejected claims 1-2, 11, 13-15 and 18-20 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Khan (U.S. Patent Application Publication No. 2003/0126121) (hereinafter "Khan"); rejected claims 5 and 9 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Khan and further in view of Bhatt (U.S. Patent Application Publication No. 2002/0118883) (hereinafter "Bhatt"); rejected claim 12 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Khan and further in view of Sano (USP 6,079,885) (hereinafter "Sano"); and rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Kowald in view of Khan and further in view of Tsukagoshi (USP 5,848,217) (hereinafter "Tsukagoshi"). Applicants respectfully traverse these rejections.

Prior Art Rejections

By this amendment, Applicants have amended claim 1 to recite, *inter alia*, a classifying means for classifying a plurality of photographic images into similar photographic image groups, comprising photographic images which are similar to each other, the similarities being determined by analyzing digital data representing the photographic images; wherein the qualified photographic image extracting means is equipped with a selection condition setting means, and the selection condition setting means sets and stores the selection conditions, after the classifying

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means classifies the photographic images, for each similar photographic image group, so as to be stricter for similar photographic image groups having a greater number of photographic images included therein; and the selection condition setting means sets and stores, as the selection conditions: (i) degree of under/overexposure, degree of defocus, and degree of blur, in a case of a group classified as landscape photographs; and (ii) degree of under/overexposure, degree of defocus, degree of blur, degree of defocus of a facial portion, and whether eyes of a subject are open, in a case of a group classified as portrait photographs.

In support of the Examiner's rejection of claim 1, the Examiner relies on item 514 of Kowald to teach the selection condition setting means. However, the disclosure of Kowald is directed to a visual language classification system for automated classification of a digital image. At paragraph [0036], Kowald discloses the classification data 524 in the store 526 may be output to an editing module 514 which, through accessing the image data via a connection 512 to the store 510, provides for the formation of an edited sequence 528 which may be output to a presentation unit 516 for display via a display unit 518, such as a television display, or storage in a mass storage device 519. Further Kowald discloses as follows:

[0048] Editing performed by the editing system 514 may operate using the classifications 524 in a variety of ways. For example, the user may wish to commence an image sequence with a long shot, and hence may enter into the system 514 a request for all long shots to be listed. The system 514 then interrogates the store 526 to form a pick-list of images that have been previously classified as a long shot. The user may then select a long shot from the list to commence the edited sequence. The classification thus substantially reduces the user's editing time by providing a ready source of searchable information regarding each image or shot sequence. Another example is where the user wishes to show the emotion "fear" in the faces of the subjects. Since faces are typically not detected in any significant detail for anything under a medium shot, a search of the store 526 may be made for all medium shots, close-ups and extreme close-ups. A corresponding pick list results from which the user can conveniently review a generally smaller number of images than the total number available to determine those that show "fear". User entered metadata such as "fear" may then supplement the automatically generated classification for those images that display such an emotion.

However, there is no disclosure in Kowald that is directed to and the selection condition setting means sets and stores, as the selection conditions: (i) degree of under/overexposure,

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degree of defocus, and degree of blur, in a case of a group classified as landscape photographs; and (ii) degree of under/overexposure, degree of defocus, degree of blur, degree of defocus of a facial portion, and whether eyes of a subject are open, in a case of a group classified as portrait photographs, as recited in claim 1, as amended.

Applicants submitted that none of the other references cited by the Examiner cure the deficiencies of the teachings of Kowald. Thus, it is respectfully submitted that claim 1, as amended, is not obvious over the references as cited. It is respectfully requested

It is respectfully submitted that claims 2, 5, 9 and 11-16 are allowable for the reasons set forth above with regard to claim 1 at least based on their dependency on claim 1. It is further respectfully submitted that claims 18 and 21 include elements similar to those discussed above with regard to claim 1 and thus these claims, together with claims dependent thereon, are allowable for the reasons set forth above with regard to claim 1.
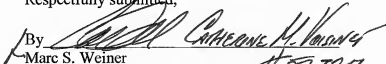
Conclusion

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By _____

Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicants